

CITY COMMISSION MINUTES

September 1, 2009

7:00 p.m.

The regular meeting of the Junction City City Commission was held on Tuesday, September 1, 2009 with Mayor Terry Heldstab presiding.

The following members of the Commission were present: Terry Heldstab, Scott Johnson, Mike Rhodes, Ken Talley, and Jack Taylor. Staff present was: City Manager Rod Barnes, Assistant City Manager Mike Guinn, City Engineer Christina Cook, City Attorney Catherine Logan, and City Clerk Tricia Gowen.

PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION

Commissioner Rhodes moved, seconded by Commissioner Talley to adjourn into executive session at 7:04 p.m. to reconvene at 7:24 p.m. to discuss pending litigation on Marshall Court Properties. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried. Included in the Executive Session were the Commission, the City Manager, and Michael Seck.

Commissioner Talley moved, seconded by Commissioner Taylor to reconvene into regular session at 7:24 p.m. having made no decisions nor taken any action while in executive session. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of the **Mayor to sign release and settlement agreements for the Marshall Court properties.** City Manager, Rod Barnes, informed the Commission the documents for the law suit will be finalized in approximately 30 days. The insurance company appointed Michael Seck and his firm to represent the City in this law suit. Mr. Seck and the insurance company are requesting that the Mayor sign the release and settlement agreements at this time in preparation for the finalization of the action. Once all of the documents are completed, the documents will be filed with the County and then it becomes a public record. Mr. Seck stated that the Mayor will sign the documents when all of the other parties have signed. Commissioner Johnson inquired if the project was engineered by Kaw Valley Engineering. Mr. Barnes stated that the permits for the project were issued by the City and that Kaw Valley Engineering did the infrastructure, not the hill. Commissioner Johnson stated that it is a matter of not taking responsibility; it should not have gotten to this point and that he is opposed to signing the agreement. Commissioner Talley moved, seconded by Commissioner Rhodes to approve the Mayor to sign the release and settlement agreements for the Marshall Court properties. Ayes: Heldstab, Rhodes, Talley, Taylor. Nays: Johnson. Motion carried four to one.

GENERAL DISCUSSION

(The Commission requests that comments be limited to a maximum of five minutes for each person.)

None.

CONSENT AGENDA

Commissioner Rhodes moved, seconded by Commissioner Talley to approve the Consent Agenda. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried. The Consent Agenda consisted of the following:

- a. Approval of the **August 18, 2009**, City Commission meeting minutes; approval of the **August 17, 2009** Special City Commission meeting minutes; approval of the **August 11, 2009** Special City Commission meeting minutes; approval of the **August 25, 2009** Special City Commission meeting minutes.
- b. The consideration of **Appropriation Ordinance** dated August 13-26, 2009 in the amount of \$1,201,400.16.
- c. The consideration and approval of **Pay Estimate #1 by HWS Consulting Group in the amount of \$11,173.11** for professional services through July 25, 2009 on Phase 2 of the Freeman Field Airport Runway 18/36 Asphalt Overlay project.
- d. The consideration and approval for **Pay Estimate #6 by Middlecreek Corporation in the amount of \$410,008.36** for construction services through August 5, 2009 on the K-18 and Karns project. The project is 99.8% complete as of this pay estimate.
- e. The consideration and approval of **Payroll #17 & #18** for the month of August 2009.
- f. The cancelation of two regularly scheduled City Commission meetings on **September 29, 2009, and October 6, 2009**.

SPECIAL PRESENTATIONS

- a. City Engineer, Christina Cook, recognized and presented certificates to the companies that donated items for the **Friends of the Kaw Boat Ramp at Grant Park**. Ms. Cook introduced Mike Calwell with the Friends of the Kaw. Mr. Calwell stated that their organization wants to change the Kansas River into a recreational resource. Mr. Calwell thanked the donors. He stated that Junction City has been the very best community in their support of this project. The community has an incredible spirit. He has built six ramps and Junction City has had the most community support. Mr. Calwell presented a plaque and recognized Ed Lazear and the Parks crew, Brad Gross with Kaw Valley Engineering and the Kansas Department of Wildlife and Parks. Mayor Heldstab stated that many volunteers came together to make this project a success and the thanked them for all of their work.
- b. City Manager, Rod Barnes, **recognized City Engineer Christina Cook** for her service to the City of Junction City. Mr. Barnes stated that Ms. Cook filled the City Engineer position admirably and presented her with a framed picture of the arch in Heritage Park. Ms. Cook thanked Mr. Barnes and the Commission for the opportunity she has had as City Engineer. She stated that the job has been extremely interesting and challenging at the same time.

PUBLIC HEARINGS

- a. City Attorney, Katie Logan, stated that City staff has recommended the de-annexation of these properties. Ms. Logan informed the Commission that they have the legal authority to exclude properties from its boundaries. The first step in the de-annexation process is to hold a public hearing for public comment. Ms. Logan stated that the public hearing notice was published in the Daily Union and the property owners were sent a letter as well. Mayor

Heldstab opened the public hearing for the **de-annexation of six separate tracts of property** located between I-70 and Liberty Hall Road on either side of Taylor Road (**Map Enclosed**). Mayor Heldstab closed the public hearing.

- b. The consideration and approval of **Ordinance S-3065** to de-annex the properties described within the attached resolution (six separate tracts located between I-70 and Liberty Hall Road on either side of Taylor Road (**Map Enclosed**) (**First Reading**)). Commissioner Rhodes moved, seconded by Commissioner Talley to approve Ordinance S-3065 to de-annex the six separate tracts of property located between I-70 and Liberty Hall Road on either side of Taylor Road. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried. Ms. Logan informed the Commission that Ordinance S-3065 becomes effective after the ordinance is published after the approval on second reading.

UNFINISHED BUSINESS

- a. The consideration and approval of a **recruitment process for the City Manager position**. City Manager, Rod Barnes, informed the Commission that two estimates were received for outside agencies to conduct the recruitment. The submissions were received from the Kansas League of Municipalities and the Austin Peters Group. The League's cost is \$6,057.60 and the Austin Peters Group is \$5,000 to \$11,000. The services from both companies include: develop job description, conduct a salary survey, assist with advertisement based on job description, review resumes for screening, recommend candidates for interview, check references, criminal background check, and notify all candidates that the position has been filled. Mr. Barnes stated that included in the packet were the costs for advertising in several governmental publications if the Commission decides to have the City conduct the recruitment in-house. Commissioner Talley stated that the City has used the League in the past for many things. He likes that ad and would like to use the League for the recruitment. Commissioner Rhodes stated that he likes the idea of using the League as well. They will be unbiased and have an independent observation. Mr. Barnes stated that the League is used for the screening process; the Commission decides ultimately which candidate to hire. Commissioner Johnson stated that the proposal from the League looks good. He has received a lot of bios from the public and many have recommended the City should use an outside agency. Commissioner Taylor stated that he had heard the same comments about utilizing an outside agency. He stated that if anyone is interested, they should submit their bios to be considered. Commissioner Talley stated that eventually the candidate should meet the public they'll be serving. He stated that he did not think of this; it was something he had seen done in Topeka. Commissioner Rhodes stated that he feels this is something the League can assist the City with. Mayor Heldstab stated that former Mayor Bob Ritter suggested using an outside agency as well. Commissioner Talley moved, seconded by Commissioner Taylor to move forward with advertising in the governmental journals and to contact the Kansas League of Municipalities to assist the Commission in the process of selecting a new City Manager and to have a closing date of 60 days. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

NEW BUSINESS

- a. The consideration and approval for request for Attorney General Opinion on the application of the **Kansas Open Meetings Act to e-mails addressed to Commissioners**. City Attorney, Katie Logan, informed the Commission that the Commission received emails from outside individuals and when the communication is responded to by a Commissioner; it is a very gray area when dealing with the open meetings requirements. In order to receive guidance from the Attorney General, the Commission must authorize the City Attorney to request an opinion from the Attorney General. The request must be made by the governing body.

Commissioner Taylor inquired if twittering would be included. Ms. Logan stated that she supposes it could. When she asks for the opinion, she will request the opinion for all electronic communications. Ms. Logan stated that the determining factor is whether there is an interactive discussion that occurs from the communication received. Commissioner Rhodes moved, seconded by Commissioner Talley to approve to request for the Attorney General's Opinion on the application of the Kansas Open Meetings Act to emails and other electronic communications addressed to the Commission. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

- b. The consideration and approval of Ordinance **G-1056** adopting recommendation of Junction City/Geary County Metropolitan Planning Commission (MPC) concerning the separation between buildings on the same residential lot, and concerning access to streets and alleys from all properties (**First Reading**). David Yearout informed the Commission that this is a clean up item and was not prompted by any new action or occurrence. Mr. Yearout stated that the building codes should determine the separation between buildings. The ordinance applies to permanent structures only. The ordinance is from this point forward; existing structures are grandfathered. Commissioner Johnson inquired about the City's liability if emergency equipment and vehicles can not get through the alley if there is a garage in the way or vehicles are blocking the alley. Ms. Logan stated the City does not have any liability if this happens. Commissioner Talley moved, seconded by Commissioner Taylor to approve Ordinance G-1056 adopting the recommendation concerning the separation between buildings on the same residential lot, and concerning access to streets and alleys from all properties (First Reading). Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.
- c. The consideration and approval of a form of **application to be used by applicants for Community Improvement District (CID) financing**. To submit an application: a \$1,000.00 fee would be collected as well as additional costs incurred by the City during the review process. City Attorney, Katie Logan, informed the Commission that on July 1, 2009 the Community Improvement District (CID) Act became effective for the stated purpose of promoting economic development. The CID authorizes cities to approve CID financing of projects. City staff and the Economic Development Commission recommend the City have a form of application to be used by applicants for CID financing. The application sets forth required information to be submitted, an application fee of \$1,000, and additional fees to cover costs which may be incurred by the City in reviewing and processing applications for this type of financing. Ms. Logan stated that the financing can be done by a special sales tax of up to two percent or from special assessments in the CID district. Ms. Logan recommends that the Commission develop a policy to address when someone wants to request a CID. Commissioner Talley inquired who receives the \$1,000 application fee. Mr. Barnes stated that it goes into the General Fund. Ms. Logan stated that the application must include all uses for the CID in the petition that is to be presented to the City. Eventually, a development agreement would be presented to the Commission for their review and approval. Ms. Logan stated that there are not any existing CID policies in Kansas. Most cities are still in the development phase of their policy. Ms. Logan stated there isn't any risk to the City. The developer must finance the project. Commissioner Taylor inquired if the Commission sets the percentage rate. Ms. Logan stated that the Commission decides the percentage rate. Commissioner Taylor inquired if there was a maximum time for the duration of a CID. Ms. Logan stated the maximum time is 22 years from when the sales tax starts to be collected. Ms. Logan stated the provisions are very broad on what can be included in a CID. Mr. Barnes stated that they key in a CID is that the Commission has the discretion as to what is approved to be included in a CID. Commissioner Taylor inquired if a CID could be done in the county. Ms. Logan stated that it could be done in the county; however, the County would have to develop its own CID policy. Ms. Logan confirmed that

a CID can be used for a full development all the way down to a small business remodel project. Commissioner Talley stated that it is a possibility that the Commission may never receive a CID request; however, the Commission should be prepared with a policy if a request is made. Commissioner Rhodes moved, seconded by Commissioner Johnson to approve the form of application to be used by applicants for Community Improvement District (CID) financing. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

- d. The consideration and approval to **request bids from the public for replacement of the club house wooden deck at Rolling Meadows Golf Course**. Assistant City Manager, Mike Guinn, stated that the upper and lower decks of the club house will be completely removed. The lower deck will be replaced. The double doors on the upper floor will be closed off and a side door will be created for an exit to the stairs. Commissioner Johnson inquired if there was money being collected for a building fund. Mr. Barnes stated that there isn't any building fund; the golf course will pay for the project out of the revenues they generate. Mr. Guinn stated that the ad time is short due to staff wanting to bring the bids back before the Commission at the September 15th meeting for final approval. Commissioner Taylor stated that this is a project that needs to be done; the decks are a safety hazard. Commissioner Talley stated that he has no problem with replacing the deck; however, it appears that we are putting a band-aid on something that needs to be fixed. Mr. Barnes stated that it has been decided to do the repairs in increments as the funds become available. Commissioner Talley moved, seconded by Commissioner Taylor to approve to request bids to replace the club house wooden deck at Rolling Meadows Golf Course. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.
- e. The consideration and approval for **Notice of Award to Rothwell Landscape, Inc. in the amount of \$13,567.00** for the New Horizons Landscaping Contract. City Engineer, Christina Cook, informed the Commission that only one bid was received (Rothwell Landscape, Inc.). The original bid was in the amount of \$25,000. After a change of acreage for seeding, the addition of fall seeding, altering the date of the final seeding and negotiating the bid, Rothwell resubmitted a bid in the amount of \$13,567.00. Ms. Cook explained that due to a provision in the development agreement, the City is responsible for the amount of the bid. Commissioner Johnson inquired if the City had cut down the trees on the property and how much the cost is for the seeding. Ms. Cook stated that the City did cut down the trees. Commissioner Johnson inquired why he wasn't cutting down his own trees and seeding. He doesn't feel the tax payers should have to pay for this and is opposed to this contract. Commissioner Johnson wanted to know why the City is paying for landscaping for a private business. Commissioner Talley stated that when there is an approved development agreement, the provisions must be honored. Commissioner Rhodes stated that he agrees with Commissioner Talley. Commissioner Johnson stated that development agreements should be looked at closely before being approved. Commissioner Rhodes moved, seconded by Commissioner Talley to approve the Notice of Award to Rothwell Landscape, Inc. in the amount of \$13, 567.00 for the New Horizons Landscaping Contract. Ayes: Heldstab, Rhodes, Talley. Nays: Johnson, Taylor. Motion carried three to two.
- f. The consideration and approval of **R-2565** to approve the filing of Self-Help Housing's USDA/Rural Development 2010 523 Grant for \$297,000.00 to include Geary, Dickinson, and Clay counties. **REMOVED FROM THE AGENDA.**
- g. The consideration and approval of the **Final Plat of Olivia Farms 3rd Addition**, a replat of a portion of Olivia Farms, west of Fort Avenue and North of Rucker Rd (**MPC unanimous vote**). Commissioner Johnson stated that the lots are smaller; what if the alley is blocked during a fire, what is the City's liability? Mr. Barnes stated that the City does not have any liability in

this instance. Ms. Logan stated that people can't be prevented from bringing a lawsuit against the City. Commissioner Taylor stated this is why a City Planner is so important and that the City can avoid problems of the past. Commissioner Johnson stated that the lots should have been spread out an additional ten to fifteen fees. He stated that people can buy whatever they want; he just doesn't want the City to be sued later. Commissioner Rhodes moved, seconded by Commissioner Talley to approve the Final Plat of Olivia Farms 3rd Addition, a replat of a portion of Olivia Farms, west of Fort Avenue and North of Rucker Road. Ayes: Heldstab, Rhodes, Talley. Nays: Johnson, Taylor. Motion carried three to two.

- h. The consideration and approval of the **Final Development Plan for a portion of Olivia Farms**, west of Fort Avenue and north of Rucker Road (**MPC unanimous vote**). David Yearout explained that no action from the Commission is needed for this item; this is for their information only
- i. The consideration and approval to **accept Hi-Plains Sand, Inc's proposal in the amount of \$11,723.00 to chip seal Grant Ave. Park parking area (KS Department of Wildlife Grant Funds)**. Commissioner Rhodes moved, seconded by Commissioner Taylor to accept the proposal in the amount of \$11,723.00 from Hi-Plains Sand, Inc. to chip seal Grant Avenue parking area. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.
- j. The consideration and approval of the **Inter-local Cooperation Agreement** between KDOT, Geary County, Junction City and Milford regarding the US-77/K-18 Corridor Management Plan (**administrative costs only**). Commissioner Talley moved, seconded by Commissioner Taylor to approve the Inter-local Cooperation Agreement between KDOT, Geary County, Junction City and Milford regarding the US-77/K-18 Corridor Management Plan (administrative costs only). Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.
- k. The consideration and approval of the **Grant of Permanent Right-of-Way at 624 North Eisenhower from Jesse E. and Burna S. Hurst for the Safe Routes to School project**. City Engineer, Christina Cook, stated there is no cost to the City. Commissioner Rhodes stated that he appreciates the Hurst's' donating the right-of-way. Commissioner Rhodes moved, seconded by Commissioner Talley to approve the grant of permanent right-of-way at 624 North Eisenhower from Jesse E. and Burna S. Hurst for the Safety Routes to School project. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.
- l. The consideration and approval of the **Contract for Professional Services: Public Defender**. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve the Contract for Professional Services: Public Defender. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.
- m. The consideration and approval to accept the **Emergency Action Plan for Homer's Pond**. City Engineer, Christina Cook, stated that the Emergency Action Plan has been updated and is in compliance with KDHE. Homer's Pond is the only high hazard dam in the City. KDHE determines what is considered high hazard based on Federal guidelines. KDHE determined that the dam at the Bluffs is not a high hazard dam. Ms. Cook confirmed that there aren't any problems with the dam at Homer's Pond; this is just to update the Emergency Action Plan and ensuring the City has a plan should the dam break. Ms. Cook stated the Commission is not required to take any action on this item.

COMMISSIONER COMMENTS

Commissioner Taylor gave condolences to Mary Anderson on the loss of her husband, John Anderson.

Commissioner Johnson stated that future projects must be looked at very closely.

Commissioner Talley – none.

Commissioner Rhodes asked the City Engineer for an update on the traffic situation at Franklin Elementary. Ms. Cook stated that the staff has studied the traffic patterns and recommended that the parked cars be relocated to further down the street on 2nd Street. Commissioner Rhodes thanked Ms. Cook for her service as City Engineer for the City.

Mayor Heldstab stated that the Manhattan Airport now has flights to Dallas with American Eagle. The service was good; very nice flight. Mayor Heldstab also thanked Ms. Cook for her service to the City.

STAFF COMMENTS

None.

ADJOURNMENT

Commissioner Rhodes moved, seconded by Commissioner Talley to adjourn at 8:53 p.m. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion Carried.

APPROVED AND ACCEPTED THIS 15th DAY OF SEPTEMBER 2009 AS THE OFFICIAL COPY OF THE JUNCTION CITY CITY COMMISSION MINUTES FOR SEPTEMBER 1, 2009.


Tricia Gowen, City Clerk


Mike Rhodes, Vice Mayor